

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

BEFORE THE STATE BOARD OF NURSING

* * * * *

COMMONWEALTH OF PENNSYLVANIA,	*
BUREAU OF PROFESSIONAL AND	*
OCCUPATIONAL AFFAIRS,	* Docket No.
Complainant	* 0148-51-17
Vs.	* File No.
NANCY COOK LEWEN, LPN,	* 17-51-00519
Respondent	*

* * * * *

HEARING TRANSCRIPT

* * * * *

BEFORE: CHRISTOPHER MCNALLY, Esquire
Hearing Examiner

HEARING: Friday, February 24, 2017
1:29 p.m.

LOCATION: Pennsylvania Department of State
2601 North Third Street
Harrisburg, PA 17106

WITNESSES: Stephen J. Bushinski

Reporter: Danielle Obert

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A P P E A R A N C E S

T'RESE M. EVANCHO, ESQUIRE

Prosecuting Attorney

Commonwealth of Pennsylvania

Department of State

P.O. Box 69521

Harrisburg, PA 17106

Counsel for Complainant

NONE PRESENT

For The Respondent

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P R O C E E D I N G S

HEARING EXAMINER:

Good afternoon. My name is Christopher McNally. I'm the Hearing Examiner assigned to this matter, which is the Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs versus Nancy Cook Lewen, LPN. Docket Number 0148-51-2017, File Number 17-51-00519.

On February 3, 2017, the Prothonotary issued a Notice of Hearing for this date and time. This is a hearing on an Order of Temporary Suspension that was issued on January 31st, 2017. And the Respondent did file, on February 10th, 2017, a response to that Order of Temporary Suspension as well as the Petition for an Immediate and Temporary Suspension.

And the Respondent did write in her response that she is --- quote, I am unable to personally attend any future hearings on this matter, period. I am not represented by an attorney, period. And it appears to have her signature, and again, that was filed on February 10th, 2017. And the attorney for the Commonwealth also received a copy of that.

She did include her return address of

1 3342 West 12th Street, Erie, Pennsylvania, 16505. And
2 that is also the address that appears on the envelope,
3 the return address that appears on the envelope, in
4 which the Respondent's Answer was mailed to the
5 Prothonotary. And that's the same address that was on
6 the Notice of Hearing.

7 And then thereafter, on February 16th,
8 after the Notice of Hearing was issued, the Respondent
9 filed a document that she's titled Acknowledgement of
10 Notice of Preliminary Hearing, and in which she states
11 that she takes this matter very seriously, but for
12 financial reasons I am unable to attend the
13 preliminary hearing in Harrisburg. And among other
14 statements, but critically for purposes of this
15 hearing, she has confirmed again that she is not able
16 to attend the preliminary hearing today.

17 So accordingly, while we would normally
18 agree to at least delay and allow the Respondent an
19 additional 15 minutes or so to appear and testify, or
20 otherwise respond, since we've received two written
21 statements from the Respondent that she is not able to
22 attend the hearing --- she did not ask for permission
23 to testify by telephone and did not ask for a
24 continuance. Therefore, we are going to proceed right
25 now.

1 So Counsel, if you would like to
2 proceed?

3 ATTORNEY EVANCHO:

4 Yes. Thank you.

5 HEARING EXAMINER:

6 And identify yourself.

7 ATTORNEY EVANCHO:

8 T'rese Evancho for the Commonwealth. On
9 January 31, 2017, the Commonwealth petitioned the
10 State Board of Nursing's Probable Cause Screening
11 Committee to issue an order immediately and
12 temporarily suspending the license of Respondent,
13 Nancy Cook Lewen, who is licensed as a practical nurse
14 in the Commonwealth.

15 The Commonwealth petitioned the Probable
16 Cause Screening Committee to issue this Order because
17 the Commonwealth determined that Ms. Lewen was a clear
18 and present danger to the public health and safety
19 based on a voluminous amount of emails that Ms. Lewen
20 had provided to Attorney Stephen Bushinski of the
21 Department of Military and Veterans Affairs.

22 Ms. Lewen was terminated from employment
23 at Pennsylvania Sailors and Soldiers Home, which is a
24 care facility run by the Department of Military and
25 Veterans Affairs. Ms. Lewen appealed that

1 termination, which led her to Attorney Stephen
2 Bushinski, as Mr. Bushinski was the attorney that
3 represented the Department in the termination appeal
4 hearing and subsequent hearings with Ms. Lewen.

5 Initially, the emails to Attorney
6 Bushinski by Ms. Lewen dealt with the pending legal
7 matters. Eventually, these emails took on a bizarre
8 and disturbing tone, as Ms. Lewen began to reference
9 things as ghosts and talking to ghosts and harnessing
10 the power of these ghosts. Much of it was aimed
11 toward Mr. --- or excuse me, Attorney Bushinski. She
12 references talking to God and God's army. She
13 references at some point some sort of involuntary
14 commitment regarding to, relating to her mental
15 health.

16 Also in these emails, she seems to track
17 down tragic or catastrophic events and essentially
18 decipher them and find meaning in them that relates
19 back to her mental health and her experiences. It was
20 because of the content of these emails that the
21 Commonwealth felt compelled to file this Petition for
22 Immediate Suspension because these raise the serious
23 issue of a severe mental instability that makes Ms.
24 Lewen unsafe to practice practical nursing unless her
25 license was suspended.

1 The Board's Probable Cause Screening
2 Committee certainly found that the evidence that was
3 shown to them that was alleged in the Petition for
4 Immediate Suspension was adequate, that Ms. Lewen is a
5 clear and present danger because the Board's Probable
6 Cause Screening Committee did order the immediate and
7 temporary suspension of Ms. Lewen's license.

8 As such, today is a preliminary hearing
9 for the Commonwealth to show that there is prima facie
10 evidence to support the preliminary --- excuse me, the
11 temporary and immediate suspension of Ms. Lewen's
12 license, which the Commonwealth will show today
13 through the testimony of Attorney Bushinski. Thank
14 you.

15 HEARING EXAMINER:

16 All right. Now, would you either like
17 to call your first witness or any documents you wish
18 to offer at this time?

19 ATTORNEY EVANCHO:

20 Yes. Thank you. First, the
21 Commonwealth would like to request that official
22 notice be taken of the State Board of Nursing's
23 records, which indicate that Respondent is licensed as
24 a practical nurse in Pennsylvania with a license
25 number of PN152006L, that her nursing license was

1 issued on July 26th, 1999 and is set to expire on June
2 30, 2018, and finally, that her address on file with
3 the Board is 3342 West 12th Street, Erie, Pennsylvania
4 16505.

5 HEARING EXAMINER:

6 Thank you. The Board and I will take
7 official notice of all the records of the State Board
8 of Nursing, as well as any documents and information
9 on file with the Prothonotary at this agency, as well
10 as we will admit for --- without attaching copies to
11 the transcript, but by reference to the documents
12 filed with the Prothonotary, any admissions that are
13 contained in the Respondent's Answers to the Petition.

14 ATTORNEY EVANCHO:

15 Thank you. And the Commonwealth
16 actually intends to introduce now some of these
17 filings. So may I have permission to approach?

18 HEARING EXAMINER:

19 Yes.

20 ATTORNEY EVANCHO:

21 Thank you. At this time, the
22 Commonwealth is presenting what has been marked as
23 Exhibits C-1, C-2, and C-3.

24 (Whereupon, Commonwealth Exhibit 1,
25 1/30/17 Petition for Immediate Temporary

1 Suspension, was marked for
2 identification.)

3 (Whereupon, Commonwealth Exhibit 2,
4 1/31/17 Order of Temporary Suspension
5 and Notice of Hearing, was marked for
6 identification.)

7 (Whereupon, Commonwealth Exhibit 3,
8 2/7/17 Answer from Respondent, was
9 marked for identification.)

10 HEARING EXAMINER:

11 And Exhibit C-1 is admitted. That is
12 the Petition for Immediate Temporary Suspension.

13 (Whereupon, Commonwealth Exhibit 1,
14 1/31/17 Petition for Immediate Temporary
15 Suspension, was admitted.)

16 HEARING EXAMINER:

17 Exhibit C-2 is the Order of Temporary
18 Suspension and Notice of Hearing, and that is
19 admitted.

20 (Whereupon, Commonwealth Exhibit 2,
21 1/31/17 Order of Temporary Suspension
22 and Notice of Hearing was admitted.)

23 HEARING EXAMINER:

24 And Exhibit C-3 is admitted as the
25 Respondent's Answer or response to the Petition and

1 Order for Immediate Temporary Suspension.

2 (Whereupon, Commonwealth Exhibit 3,
3 2/7/17 Answer from Respondent, was
4 admitted.)

5 ATTORNEY EVANCHO:

6 Thank you. And the Commonwealth
7 respectfully asks that official notice be taken of any
8 admissions contained in C-3.

9 HEARING EXAMINER:

10 Thank you.

11 ATTORNEY EVANCHO:

12 Thank you. And also, I would like to
13 introduce a document that has been marked as Exhibit
14 C-4.

15 (Whereupon, Commonwealth Exhibit 4, Copy
16 of LPN License and 2/2/17 Letter from
17 Respondent, was marked for
18 identification.)

19 ATTORNEY EVANCHO:

20 This is a letter that was sent from Ms.
21 Lewen, and it was addressed to myself and the Nursing
22 Board members. Attached to it was her license, which
23 are copies of here. And also, I made a copy of the
24 envelope that this was received in.

25 The Commonwealth at this time would

1 attest that this has come from Ms. Lewen as the return
2 envelope has a return address of 3342 West 12th
3 Street. It looks like Erie is covered out by the
4 certified mail, but it has a ZIP Code of 16505. And
5 it's just a subsequent letter from Ms. Lewen.

6 HEARING EXAMINER:

7 Do you have the originals?

8 ATTORNEY EVANCHO:

9 I do have the originals. Would you like
10 to see them?

11 HEARING EXAMINER:

12 Yes, please.

13 ATTORNEY EVANCHO:

14 There it looks like she has attached to
15 it her licenses and then the envelope is attached to
16 the back.

17 HEARING EXAMINER:

18 Just for the record, if I remember
19 correctly, the typical procedure for a returned
20 license is that the Board takes that document, the
21 original; is that right?

22 ATTORNEY EVANCHO:

23 Yes. And we had just not given it to
24 the Board yet. And we were just waiting for this
25 hearing.

1 HEARING EXAMINER:

2 And then ultimately it's destroyed; is
3 that right?

4 ATTORNEY EVANCHO:

5 To be honest, I am not sure what happens
6 to that licensee. I don't know because if this is not
7 upheld I believe that the suspension then is no longer
8 in effect.

9 HEARING EXAMINER:

10 Right.

11 ATTORNEY EVANCHO:

12 I don't know if they would reissue a new
13 one or return that.

14 HEARING EXAMINER:

15 All right. But in any event, we are not
16 going to use the original license certificate and
17 wallet card because the proper procedure is that it's
18 kept with the State Board of Nursing. So the document
19 that has been offered is a true and correct copy of
20 the original and therefore is admissible.

21 As for the letter itself, I do want to
22 point out that upon my examination of the letter, the
23 signature is in black ink, but judging from the
24 impression, it is handwritten and appears to be
25 consistent with the signature that appears on the

1 Respondent's other documents that she has filed with
2 the Prothonotary. It is very similar, as well as the
3 handwriting on the envelope, the original envelope, is
4 also similar to what purports to be the Respondent's
5 handwriting on the other documents.

6 So it's up to you, Counsel, but I would
7 suggest that the originals of the letter be made, be
8 admitted into evidence and attached to the transcript,
9 because they do note some indicia of --- that it's
10 actually written by the Respondent herself.

11 ATTORNEY EVANCHO:

12 And the Commonwealth does not object to
13 this. These have obviously been filed in the
14 Prothonotary. We would only have gotten a copy
15 anyway. So I will just attach the original license
16 and the envelope to my copy of the letter. And I will
17 provide the original to the Court Reporter.

18 HEARING EXAMINER:

19 All right.

20 ATTORNEY EVANCHO:

21 Thank you. At this time, the
22 Commonwealth would request that Exhibit C-4 be
23 admitted into evidence and that official notice be
24 taken of any admissions containing therein.

25 HEARING EXAMINER:

1 All right. And C-4 is admitted.

2 (Whereupon, Commonwealth Exhibit 4, Copy
3 of LPN License and 2/2/17 Letter from
4 Respondent, was admitted.)

5 ATTORNEY EVANCHO:

6 Thank you. At this time I would like to
7 call Attorney Bushinski to the stand.

8 HEARING EXAMINER:

9 Mr. Bushinski, if you would please come
10 forward and raise your right hand?

11 -----
12 STEPHEN J. BUSHINSKI, ESQUIRE, HAVING FIRST BEEN DULY
13 SWORN, TESTIFIED AS FOLLOWS:

14 -----
15 HEARING EXAMINER:

16 Please be seated.

17 DIRECT EXAMINATION

18 BY ATTORNEY EVANCHO:

19 Q. Good afternoon, Attorney Bushinski.

20 A. Good afternoon.

21 Q. Can you state and spell your name for the record?

22 A. My name is Stephen J. Bushinski. Stephen is
23 spelled S-T-E-P-H-E-N. Middle initial J. Last name
24 B-U-S-H-I-N-S-K-I.

25 Q. Thank you. Are you employed?

1 A. I'm employed by the Commonwealth of Pennsylvania,
2 Department of Military and Veterans Affairs.

3 Q. And what is your position there?

4 A. I am the Senior Assistant Chief Counsel in their
5 Office of General Counsel.

6 Q. And what type of duties do you perform in your
7 role as Assistant Chief Counsel?

8 A. Well, I provide legal representation to the
9 Department as a whole, but primarily my work involves
10 work with six state veterans' homes that are
11 administered by the Department of Military and
12 Veterans Affairs.

13 Q. Are you acquainted with the Respondent in this
14 matter, Ms. Lewen?

15 A. Yes, I am.

16 Q. And how did you become acquainted with Ms. Lewen?

17 A. In my role as Assistant Chief Counsel with the
18 Department of Military and Veterans Affairs, I am
19 often called on to represent the Department. The
20 Department's acronym is the D-M-V-A, and that's how
21 I'll refer to it.

22 I'm often called to represent the DMVA in labor
23 matters. On March 16 of --- or March 14th, rather, of
24 2016, the Pennsylvania Soldiers and Sailors Home,
25 which is a state veterans home operated by DMVA in

1 Erie, Pennsylvania, fired Ms. Lewen for a number of
2 acts of misconduct.

3 Ms. Lewen was a civil service employee in her
4 position as a licensed practical nurse, and as such
5 she had rights of appeal to the Commonwealth of
6 Pennsylvania's State Civil Service Commission. After
7 she was fired, she probably filed an appeal with the
8 State Civil Service Commission, and she also made
9 applications for unemployment compensation benefits
10 through the Bureau of Unemployment Compensation.

11 Both of these actions are separate actions, but I
12 was called on to represent the Pennsylvania Soldiers
13 and Sailors Home in both actions.

14 Q. Both of those actions that you just referenced,
15 have they been concluded with Ms. Lewen?

16 A. Yes, they have. Her appeal was denied by the
17 State Civil Service Commission on or about December
18 8th of 2016. She filed for reconsideration of their
19 decision, but the State Civil Service Commission
20 denied her request for reconsideration on or about
21 January 11, 2017.

22 She had not appealed the State Civil Service
23 Commission's adjudication of December 8th, 2016 to the
24 Commonwealth of Pennsylvania Court of Common Pleas, so
25 she is now without recourse as far as an appeal goes.

1 So the State Civil Service Commission action is
2 completely finished.

3 Her actions before the Workers; Comp --- or I'm
4 sorry, the Unemployment Compensation authorities, that
5 terminated much earlier. That wrapped up in favor of
6 the Pennsylvania Soldiers and Sailors Home. I believe
7 it was in August of 2016. So those two actions are
8 done.

9 Q. Are there any other actions pending that you are
10 representing the Department and Ms. Lewen is on the
11 opposing side?

12 A. Yes. There is one other action. In August, I
13 believe, of 2016, Ms. Lewen filed a charge of
14 discrimination against the Pennsylvania Soldier's and
15 Sailor's Home with the United States Employment Equal
16 Opportunity Commission, the EEOC.

17 As is the general case, she also cross filed with
18 the Pennsylvania Human Relations Commission. So the
19 EEOC takes the lead in cases like this, where she
20 initially filed with them. That action is still
21 pending, and it is not expected to resolve until
22 sometime later this year.

23 Q. Thank you. So you became acquainted with Ms.
24 Lewen with these pending legal matters. Can you tell
25 the Board and the Hearing Examiner about the

1 interactions that you had with Ms. Lewen.

2 A. Yes, I can. The first contact I had with Ms.
3 Lewen, I believe, was telephonic. She called me
4 sometime in late March of 2016 to discuss discovery
5 requests that she made to the State Civil Service
6 Commission. That was the only phone call I ever had
7 with her.

8 My method of proceeding when I'm dealing with pro
9 se litigants is I prefer to receive their
10 communications in writing, and I told Ms. Lewen that
11 during our telephone conversation. So we had one
12 telephone conversation, and that was the only time I
13 spoke to her by telephone.

14 After that, she proceeded to communicate with me
15 by letter, which were very few, and mostly by email.
16 And the primary way we communicated since, say, early
17 April of 2016 to the present is by email.

18 Also, I had some in-person communication with her
19 when we had the State Civil Service Commission hearing
20 on June 13, 2016 and the unemployment compensation
21 hearing on June 24th of 2016.

22 Q. Can you describe the history of the emails that
23 Ms. Lewen has sent to you?

24 A. Yes, I can. At first her emails were what one
25 would normally expect out of somebody who you were

1 having a legal matter, a legal dispute, with. The
2 tone of her emails was rather angry, but the tone was
3 rational, entirely rational. She would discuss how
4 she didn't do the things that the Pennsylvania
5 Soldiers and Sailors Home had fired her for. She
6 would discuss settling the case, and she would discuss
7 procedural matters such as discovery, witnesses,
8 things of that nature.

9 She did send one or two emails that were also
10 threatening in some manner, threatening violence more
11 or less. And she continued in this vein from early or
12 late March of 2016 'til about July of 2016.

13 So the first phase of her emails, they were
14 pretty much entirely rational. I had no reason to
15 suspect that I was not --- that I was dealing with
16 somebody who was not rational. But then in July
17 something happened. I don't exactly know what, but
18 something happened. The tone of her emails changed.
19 She became irrational and started sending me things
20 that can best be described as having no basis in
21 reality.

22 For instance, she claimed to be in communication
23 with her dead mother's ghost, and the spirit of Diana
24 Windsor, the former late Princess of Wales. She
25 thought that I had communication with Prince Harry of

1 the English royal family, and also with Pope Francis.
2 And of course, I don't have communication with any of
3 these people.

4 That's the kind of stuff she started sending me
5 in July. This stuff made me think, these emails made
6 me think I was dealing with somebody who was suffering
7 some sort of mental delusion, but I couldn't be sure.
8 One of the striking things about Ms. Lewen is she
9 considers herself to be an attorney as well as many
10 other things. And I thought that she was kind of
11 trying to confuse me or trying to lay a foundation for
12 some sort of weird insanity defense or something like
13 that.

14 So I didn't really know what I was dealing with.
15 But that's how the emails went from July to say
16 October. They were strange. They made me think that
17 I was possibly talking to somebody who was --- who had
18 a mind that was diseased, but I could not be sure.
19 And of course, you know, other people who reviewed
20 them as well could not be sure either. None of us are
21 psychiatrists or anything like that, and we don't have
22 her in front of us.

23 In October of 2016, things changed yet again.
24 Her emails became darker, more threatening. She began
25 to --- her delusions began to seem more severe. She

1 began to state that there were 2,500 ghosts at the
2 Pennsylvania Soldiers and Sailors Home in Erie, ghosts
3 of dead veterans that she talked to, and that these
4 ghosts were very angry at the way that I had treated
5 her when I had defended the actions of the
6 Pennsylvania Soldiers and Sailors Home. And that
7 these ghosts were coming to do me harm, to kill me.
8 In one email, she said they were going to eat my
9 flesh, all sorts of dire predictions.

10 Besides the ghosts of the Pennsylvania Soldiers
11 and Sailors Home, there were another 20,000 she had on
12 tap at a place called Lovell Place, which was where
13 the unemployment compensation hearing took place up in
14 Erie on June 24. They were also angry at me, and they
15 were eventually going to come and get me.

16 In addition to the ghosts, God was also angry at
17 me and he was going to do me harm as well. So we had
18 all these threatening things, very obviously
19 impossible performance, very improbable.

20 But again, her tone had changed. I wasn't the
21 only one she threatened in these emails. I mean, she
22 also extended her threats to other people at the
23 Pennsylvania Soldiers and Sailors Home and also even
24 mentioned the State Civil Service Commission.

25 So she continued on like that making these

1 threats, sending me these emails and we, quite
2 frankly, did not know what to make of this stuff. It
3 was strange, but we didn't know if she really believed
4 all these things or if she was doing this for some
5 nefarious purpose of her own.

6 But then in December of 2016, out of the clear
7 blue, she sent me, attached to her emails, some
8 medical documents from an involuntary medical
9 commitment that she had in the State of New York. I
10 believe it was in the year 2010, though I'm not quite
11 sure if that memory is accurate. But she just sent me
12 this stuff, and it had diagnoses on it and it showed
13 that she had been admitted for a week and that her
14 discharge summary indicated that she was delusional.

15 So she had been involuntarily committed. When I
16 got these emails, of course, --- or when I got those
17 records, I took further action at that point.

18 Q. How frequent had Ms. Lewen emails been to you?

19 A. Well, at first, when they started back in 2016,
20 I'd get a couple a week. They began to increase in
21 frequency as the litigation went on. And then by
22 July, I was getting a couple every day. I mean,
23 sometimes on the weekend --- I think I counted one
24 time as much as 36 on one weekend back in the fall.

25 I mean, she just kept on sending me these emails

1 and just kept bombarding me with this stuff. So they
2 were very frequent. She is a very faithful
3 correspondent.

4 Q. Does Ms. Lewen continue to email you?

5 A. Yes. I got one from her as recently as
6 yesterday.

7 Q. To kind of put a point on it, between January
8 28th, 2017 at 11:38 a.m. and January 30th, 2017 at
9 5:39 p.m., how many emails did Respondent send you,
10 Ms. Lewen send you?

11 A. I believe she sent 19 or more.

12 Q. And what are the natures --- what is the nature
13 of Ms. Lewen's emails to you?

14 A. Well, again, lots of threats. She keeps telling
15 me my death is imminent, that I'm not long for the
16 world. She wants to talk to my wife to give her
17 advice on dating at an older stage of her life after
18 I'm dead, things of that nature.

19 It's just bizarre stuff. I mean, she does a lot
20 with these threats, but she also does something that I
21 call the earthquake messages. She apparently has some
22 sort of website that goes to a geological website and
23 it lists all the earthquakes that are happening in the
24 world with latitude and longitude. And these
25 earthquake messages, she construes every earthquake as

1 a direct communication from God to say that she is
2 right in what she is doing and that I'm wrong.

3 And she says things like God confirmed by means
4 of this earthquake at latitude such and such, and then
5 she goes to great lengths and explains the meaning of
6 the place thing --- and things like that. It's all
7 really bizarre stuff. I can't begin to follow it all,
8 and after a while they're rather tiresome. I just
9 stopped reading them a long time. So that's basically
10 what they're all about.

11 Q. Thank you. I'm going to hand you a document that
12 has been marked as Exhibit C-5.

13 (Commonwealth Exhibit 5, 1/10/17 Email
14 from Nancy Lewen to Stephen Bushinski,
15 was marked for identification.)

16 ATTORNEY EVANCHO:

17 Your Honor, may I have standing
18 permission to approach?

19 HEARING EXAMINER:

20 Yes.

21 ATTORNEY EVANCHO:

22 Thank you. I will also provide that to
23 the Hearing Examiner and the Court Reporter.

24 BY ATTORNEY EVANCHO:

25 Q. Attorney Bushinski, will you identify this

1 document?

2 A. Yes. This is an email that Ms. Lewen sent to me
3 on Tuesday, January 10, 2017 at 5:24 p.m.

4 Q. And is this a true and correct copy of that email
5 that you received?

6 A. It is. I have not altered it in any way.

7 Q. And looking at the email address on Exhibit C-5,
8 is this the same email address used by Ms. Lewen when
9 she began corresponding with you and which you called
10 a rational phase?

11 A. Yes, it is.

12 ATTORNEY EVANCHO:

13 Your Honor, at this time the
14 Commonwealth would move that Exhibit C-5 be admitted
15 into evidence.

16 HEARING EXAMINER:

17 C-5 is admitted.

18 (Whereupon, Commonwealth Exhibit 5,
19 1/10/17 Email from Nancy Lewen to
20 Stephen Bushinski, was admitted.)

21 BY ATTORNEY EVANCHO:

22 Q. Attorney Bushinski, is this email typical of the
23 types of emails that you've received from Ms. Lewen?

24 A. Absolutely. She talks about fire her. She finds
25 meaning in this fire and connects it somehow to her

1 case and my conduct. And then I believe she also has
2 --- I don't know if you have the earthquake messages
3 in this one. But yeah, this is quite typical. She
4 even talks about her involuntary admission to the
5 psychiatric hospital, I think, in this one. In that
6 respect, it's not typical. But yes, this is quite
7 typical of her emails. She references Princess Diana
8 who apparently she speaks to.

9 Q. Thank you. I'm going to hand you
10 another document that has been marked as Exhibit C-6.

11 (Whereupon, Commonwealth Exhibit 6,
12 1/1/2017 Email from Nancy Lewen to
13 Stephen Bushinski, was marked for
14 identification.)

15 BY ATTORNEY EVANCHO:

16 Q. Can you identify this document?

17 A. This is the email that Ms. Lewen sent to me on
18 Sunday, January 1, 2017 at 10:16 a.m.

19 Q. And is this a true and correct copy of the email
20 that you received?

21 A. It is. I have not altered this email in any way.

22 Q. And again, looking at the email address in this
23 Exhibit C-6, is this the same email address that Ms.
24 Lewen used when you were corresponding with her at
25 what you've described as the rational period?

1 A. Yes. This is the same email address.

2 ATTORNEY EVANCHO:

3 At this time, the Commonwealth would
4 move for Exhibit C-6 to be admitted into evidence.

5 HEARING EXAMINER:

6 C-6 is admitted.

7 (Whereupon, Commonwealth Exhibit 6,
8 1/1/17 Email from Nancy Lewen to Stephen
9 Bushinski, was admitted.)

10 ATTORNEY EVANCHO:

11 Thank you.

12 BY ATTORNEY EVANCHO:

13 Q. And again, Attorney Bushinski, is this email
14 typical of the types of email that you have received
15 from Ms. Lewen?

16 A. Yes. This is one of them that I characterize as
17 an earthquake message. As you see, I think in the
18 third or fourth paragraph, she starts out, yesterday
19 there were more than 100 earthquakes, et cetera. And
20 she goes on to explain what the place names of the
21 locations of earthquakes mean. And there's also
22 ghosts mentioned in this to some extent. Typical
23 email.

24 Q. Thank you. And lastly, I'm going to hand you
25 what has been marked as Exhibit C-7.

1 (Whereupon, Commonwealth Exhibit 7,
2 9/10/16 Email dated 9/10/2016 from Nancy
3 Lewen to Stephen Bushinski, was marked
4 for identification.)

5 BY ATTORNEY EVANCHO:

6 Q. Can you identify this document Attorney
7 Bushinski?

8 A. Yes. This is an email that Ms. Lewen sent to me
9 on September 10, 2016 at 1:57 p.m.

10 Q. And you acknowledge receiving this email?

11 A. I do.

12 Q. And is this a true and correct copy of the email
13 that you received?

14 A. Yes. It is.

15 Q. And again, looking at that email address in
16 Exhibit C-7, is this the same email address that Ms.
17 Lewen used when she was corresponding with you,
18 emailing you, in what would have been termed her
19 rational period?

20 A. Yes. That's the same email address.

21 ATTORNEY EVANCHO:

22 At this time, the Commonwealth would
23 move that Exhibit C-7 be admitted into evidence.

24 HEARING EXAMINER:

25 C-7 is admitted.

1 (Whereupon, Commonwealth Exhibit 7,
2 9/10/16 Email from Nancy Lewen to
3 Stephen Bushinski, was admitted.)

4 BY ATTORNEY EVANCHO:

5 Q. Thank you. And again, Attorney Bushinski, is
6 this email typical of the types of emails that you
7 have received from Ms. Lewen?

8 A. Yes. She references things that are beyond
9 rational comprehension. Like she talks about a 555
10 gate which I have no idea what she's talking about
11 there. She talks about a letter to Jim Carrey, which
12 I believe is an actor, which if I'm right, I think he
13 died recently or something. It has all sorts of
14 strange things in it.

15 Q. Thank you. Have you ever discussed the emails
16 with the Respondent or replied to them?

17 A. I would reply to her emails when they were
18 rational, certainly. During the early phase of our
19 email correspondence from, say, March to July, we'd
20 communicate that way quite a bit. And we would
21 discuss things that were pertinent to the litigation.

22 Even after July, I would sometimes get an email
23 from her that was perfectly rational and, of course, I
24 would reply to that as best as I could. I never would
25 reply to any of the strange things that she would say

1 because quite frankly, I didn't know how to do that.

2 So I would just not do that.

3 Q. When was it that --- do you recall the last time
4 you responded to Ms. Lewen?

5 A. I think my last response to her was in December
6 of 2016.

7 Q. Can you estimate a total number of emails that
8 you received from Ms. Lewen?

9 A. There are well over 100. I would say anywhere
10 from 100 to 250. For a period of time back in
11 September and October, I didn't even keep copies of
12 them. They were so tiresome to read that when they
13 would just come in, I would quickly glance at them and
14 if they had nothing rational in them, I would just
15 delete them. So there were many that I didn't keep
16 copies of. But I would say between 100 to 250 easily.

17 Q. And how would you categorize the subject or
18 information that Ms. Lewen talks about in these
19 emails?

20 A. Most of the time it was just plain nonsense.
21 Again, she would talk about the ghosts. She would
22 talk about how they're coming to get me. She would
23 talk about how I wronged her. She would talk about
24 how people at the Pennsylvania Soldiers and Sailors
25 wronged her and ghosts were probably going to get

1 them, too. Typical stuff. Her communications just
2 made no sense.

3 Q. Did you ever feel threatened by any of her
4 emails?

5 a. Well, her emails did cause a lot of consternation
6 and concern. Back in the rational period, as I refer
7 to it as, back in May of 2016, she set a couple emails
8 that, honestly, had people thinking that she was going
9 to commit an act of violence if she didn't get her way
10 in settlement.

11 These emails were so outrageous that we actually
12 sent them off to the District Attorney of Erie County
13 for investigation. It caused so much concern that the
14 Pennsylvania Soldiers and Sailors Home took extra
15 steps in security. And even at the Department of
16 Military and Veterans Affairs, extra steps and
17 security were taken because it was thought that she
18 would perhaps do some violence on the personnel at
19 Department headquarters.

20 Q. So how did your Department essentially --- I
21 mean, just sort of to clarify and wrap it up, how did
22 your Department clarify or classify these emails? How
23 did they treat them?

24 A. They caused a great deal of confusion at first.
25 Again, we didn't know what we were dealing with here.

1 We didn't know if these --- if she was --- if these
2 emails were really the product of somebody who was
3 mentally deranged, or if she had some weird purpose of
4 her own.

5 As I said, she always thought of herself as being
6 a lawyer, and we thought she was maybe laying some ---
7 kind of like some groundwork for a weird sort of
8 insanity defense of some sort. There were concerns at
9 times that she was going to come down and do violence
10 to different people. There were concerns that she was
11 going to do violence to herself.

12 But again, we just couldn't figure it out. Well,
13 it wasn't until we got the medical records that we
14 kind of knew for sure that we were dealing with a
15 person who was not in full possession of her mental
16 faculties.

17 ATTORNEY EVANCHO:

18 I have no further questions. Thank you,
19 Attorney Bushinski.

20 HEARING EXAMINER:

21 Attorney Bushinski, did you ever meet
22 Ms. Cook (sic) in person?

23 A. Ms. Lewen?

24 HEARING EXAMINER:

25 Ms. Lewen.

1 A. Yes, Your Honor, I did. I met her twice in
2 person, first at the hearing on the State Civil
3 Service Commission Appeal. That was on June 13th of
4 2016 up at Erie. We actually had the hearing held at
5 the Pennsylvania Soldiers and Sailors Home.

6 The Civil Service Commission sent up a Hearing
7 Officer to conduct the hearing. So that's when I
8 first met Ms. Lewen. And it was a hearing much like
9 this except that, you know, everybody was there. The
10 examination of witnesses, Cross Examination, things of
11 that nature.

12 I then met her again about two weeks later on
13 June 24th of 2016 when we had a Hearing before
14 Unemployment Compensation Referee Jennifer Fisher.
15 This was held at Lovell Place in Erie. It was a
16 factory that was converted into administrative
17 offices. And again, that was an adversarial hearing
18 and Ms. Lewen came in, testified, examined witnesses,
19 things of that nature.

20 HEARING EXAMINER:

21 And so you had the opportunity to
22 observe her, ---

23 A. Yes.

24 HEARING EXAMINER:

25 --- meaning the Respondent? Did she

1 exhibit or express anything similar to what she put in
2 her emails during either of these hearings?

3 A. Well, at the June 13, 2016 hearing, she did not.
4 She was perfectly rational during all that time.
5 There was no strange behavior. At the June 24th
6 hearing, on the other hand, she did at one point liken
7 herself to Jesus cleansing the temple in her actions
8 towards, first off, the Pennsylvania Soldiers and
9 Sailors home. That was the only thing that was any
10 way remotely odd about her behavior.

11 HEARING EXAMINER:

12 And was this in reference to her claim
13 that --- it appears that she has claimed that she was
14 advocating for her patients in the hospital. Is that
15 what she meant by cleansing?

16 A. Exactly. Yes.

17 HEARING EXAMINER:

18 And did you say that the Civil Service
19 Commission proceeding is concluded?

20 A. Yes, it is. That's completely done.

21 HEARING EXAMINER:

22 And that resulted in an adverse decision
23 against Ms. Cook?

24 A. That's correct. The State Civil Service
25 Commission denied her appeal of her termination. That

1 action is completely over.

2 HEARING EXAMINER:

3 And can you tell us what the findings
4 were with respect to affirming the termination of her
5 employment?

6 A. Yes, I can. Ms. Lewen was fired for, I think, a
7 number of different things. One of which was she had
8 other threats of workplace violence. The Commission,
9 I believe, found that the --- our witnesses, the
10 witnesses of the Pennsylvania Soldiers and Sailors
11 home were credible, and that the Commission believed
12 that she did utter these threats.

13 She was also fired for having sexually harassed
14 another employee up there. The State Civil Service
15 Commission found that we met our burden in proving
16 that as well. She was also fired for having used
17 Commonwealth of Pennsylvania information technology
18 resources to effectuate her sexual harassment and
19 workplace violence activities.

20 That's a violation of the Commonwealth of
21 Pennsylvania's information technology policy. You
22 can't use IT resources to bully people or threaten
23 people or sexually harass them. That alone is
24 sufficient to result in termination.

25 The Commonwealth --- the Civil Service Commission

1 found that we had met our burden and proved that as
2 well.

3 And she also engaged in some acts of intimidation
4 towards the wife of the person she sexually harassed.
5 And the State Civil Service Commission found that we
6 had met our burden of proving that as well.

7 HEARING EXAMINER:

8 And also her unemployment compensation
9 claim has also resulted in an adverse decision for
10 her?

11 A. That is correct. There was four different levels
12 that that proceeded on, and she lost at each of those
13 levels.

14 HEARING EXAMINER:

15 What were the grounds or what
16 conclusions did the Bureau of Unemployment
17 Compensation make with respect to her Claim?

18 A. Exactly the same as the State Civil Service
19 Commission. I put on all the same evidence and almost
20 all the same witnesses at the unemployment
21 compensation hearing as I did at the State Civil
22 Service Commission hearing. There was only one or two
23 witnesses that were different.

24 So again, workplace violence, sexual harassmt
25 of another employee, bullying and intimidation which

1 falls under the rubric of workplace violence, and also
2 misuse of the Commonwealth's IT resources. All of
3 these things, the referee, Jennifer Fisher, found that
4 we had sustained our burden on them.

5 HEARING EXAMINER:

6 And in Exhibit C-3, I believe there is a
7 reference to --- that the Respondent made a statement
8 to the effect of --- she certainly says that she's had
9 a past diagnosis of posttraumatic stress disorder.
10 Did she at any time in the prior proceedings or in
11 your presence indicate or admit to that type of
12 impairment or diagnosis?

13 A. I don't believe she said anything about that at
14 either the Civil Service Commission hearing or the
15 unemployment compensation hearing. But she did raise
16 that issue of the post-traumatic stress disorder as
17 the basis of her complaint to the Equal Opportunity
18 Commission, that action that is still outstanding.

19 HEARING EXAMINER:

20 And she filed that as a matter of record
21 in that proceeding?

22 A. Yes.

23 HEARING EXAMINER:

24 Did she at any time in your --- when you
25 were physically present, did you ever hear her state

1 or indicate that she had or was experiencing a
2 psychotic breakdown?

3 A. No.

4 HEARING EXAMINER:

5 Did she ever indicate she was
6 experiencing symptoms of depression or anxiety?

7 A. The only thing she ever said was during the Civil
8 Service Commission. She said to somebody else that
9 the hearing was grueling.

10 HEARING EXAMINER:

11 On page five of Exhibit C-3, ---.

12 A. Your Honor, I don't think I have that in front of
13 me.

14 ATTORNEY EVANCHO:

15 Oh, I apologize. No, he was not
16 provided with that. But I can certainly facilitate
17 that.

18 A. Page five, Your Honor?

19 HEARING EXAMINER:

20 Yes, the last paragraph, beginning in
21 the third line, it states I informed him that I did
22 have a psychotic breakdown in 2010 during stressful
23 legal proceedings when an unethical attorney and Judge
24 assisted my ex-husband to commit interstate child
25 custody interference, child support evasion and fraud.

1 Did you recall her ever informing you of that?

2 A. No, not in those words and certainly not --- she
3 did not inform me --- as I recall, she did not inform
4 me that she had a psychotic breakdown. She did
5 describe the legal proceedings which I think were
6 custody proceedings in the State of Florida. But I
7 don't recall her ever saying that she told me that she
8 had a psychotic breakdown.

9 HEARING EXAMINER:

10 And was the description of these custody
11 proceedings in person or was this again by email?

12 A. This was by email. She actually described
13 several times the custody proceedings, and the lawyer
14 who was opposing her had the misfortune to die a few
15 weeks later on. And she attributed that to her
16 intervention somehow.

17 HEARING EXAMINER:

18 The attorney for husband or the ---?

19 A. The husband, yeah. And she would always imply
20 that I was going to suffer an identical fate.

21 HEARING EXAMINER:

22 I don't think I have any other questions
23 for you, Attorney Bushinski. Ms. Evancho, is there
24 anything else you'd like to ask?

25 ATTORNEY EVANCHO:

1 I do not have anything else. Thank you.

2 HEARING EXAMINER:

3 I would like to --- does the
4 Commonwealth have a copy of the written adjudication
5 in either the Civil Service Commission or the
6 unemployment compensation hearing?

7 ATTORNEY EVANCHO:

8 The Commonwealth was provided with one
9 of those. May I have a moment to ---?

10 HEARING EXAMINER:

11 Sure.

12 ATTORNEY BUSHINSKI:

13 I think we both had the Civil Service
14 Commission adjudication. I can also provide Referee
15 Fisher's Decision and Order any time you need it.

16 ATTORNEY EVANCHO:

17 Okay. Great. Your Honor, the
18 Commonwealth had one. Unfortunately, I'm having a
19 hard time locating it.

20 HEARING EXAMINER:

21 You don't need to give it to me right
22 now, but I would like you to supplement the record
23 because the --- if there's a final Adjudication even
24 by an Administrative Agency, that any Findings of
25 Fact, any Conclusions that they make may have some

1 bearing and may have some preclusive effect on this
2 proceeding. We may be able to use them as --- you
3 know, if the Respondent has litigated a question of
4 whether she has, for example, engaged in threats of
5 workplace violence that ---. I realize that the
6 principal allegations on which your petition was based
7 were these emails, but essentially, it is the risk of
8 harm and the existence of some impairment and the
9 likelihood of some --- or the possibility of some type
10 of physical violence that --- if that has already been
11 decided, it may be helpful, I would assume.

12 ATTORNEY EVANCHO:

13 Then would we ask if the record could
14 stay open, and we will supply --- again, the
15 Commonwealth was in possession of one of those, but
16 Attorney Bushinski will be able to provide the
17 Commonwealth with --- we'll just get two copies of
18 both, and I'll supplement the record with that.

19 HEARING EXAMINER:

20 Yes. Sure. Great. Thank you.

21 ATTORNEY EVANCHO:

22 I'll just file them with the
23 Prothonotary then?

24 HEARING EXAMINER:

25 Yes.

1 ATTORNEY EVANCHO:

2 Okay.

3 HEARING EXAMINER:

4 All right. Anything else?

5 ATTORNEY EVANCHO:

6 The Commonwealth has nothing further and
7 rests. Thank you.

8 HEARING EXAMINER:

9 All right. And since this is --- these
10 are adjudicated matters, usually I do a Memorandum
11 Decision on these Orders of Temporary Suspension. But
12 if I do that this afternoon, I would not be able to
13 specifically cite them, but I'll reference those
14 adjudications for findings that she did, in fact, make
15 threats of workplace violence.

16 And all right. Anything further? Would
17 you like to make a closing statement?

18 ATTORNEY EVANCHO:

19 Yes. Just briefly, Your Honor. The
20 purpose of today's hearing was to show that there was
21 prima facie evidence to support the immediate
22 temporary suspension of Respondent's license.

23 The Commonwealth had demonstrated and
24 met that burden based on the testimony of Attorney
25 Bushinski that we heard today and the evidence that

1 was admitted into the record. Based on all of that,
2 the prima facie burden has been met, and the
3 Commonwealth has demonstrated that Ms. Lewen is a
4 clear and present danger to the Commonwealth if she is
5 to have a current license at this time.

6 And as such, the Commonwealth requests
7 that this Order by the Probable Cause Screening
8 Committee be upheld and bound over. Thank you.

9 HEARING EXAMINER:

10 Thank you very much. We'll adjourn.
11 And that'll be it. Thanks.

12

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HEARING CONCLUDED AT 2:22 P.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings,
hearing held before Examiner McNally was reported by
me on 02/24/2017 and that I, Danielle Obert, read this
transcript, and that I attest that this transcript is
a true and accurate record of the proceeding.



Danielle Obert,
Court Reporter